IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

Bail Appl..No. 7054 of 2007()

CRIME NO.552/07 OF TELLICHERRY POLICE STATION
.....

PETITIONER ACCUSED NO.6

K.SAJESH.R.BHASKARAN
AGED 73 YEAS, GOKULAM, PALLOOR, MAHE.

BY ADV. SRI.V.RAJAGOPAL

RESPONDENTS: COMPLAINANT

STATE, SHO TELLICHERRY POLICE STATION
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U.NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7054 OF 2007

Dated this the 20th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 6th accused. Altogether, there are 8 accused persons. They face allegations under the Explosive Substances Act. The crux of the allegations against the petitioner is that an unlawful assembly of persons allegedly hurled explosive substances at the house of the de facto complainant causing damage to the building. Fortunately, the inmates did not allegedly suffer any injuries. The petitioner is named in the F.I.R. The de facto complainant is alleged to have looked out through the window and seen the miscreants including the petitioner. The crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that

the allegations are totally false. At any rate, the alleged identification by the de facto complainant of all the accused persons in the night – at 1.20 a.m. cannot be swallowed without a pinch of salt, submits the learned counsel for the petitioner. It is impossible, at this stage, to embark on a detailed discussion to ascertain the precise complicity of the petitioner. That an attack took place and explosive substances were used appear to be evident from the nature of the materials placed by the learned Public Prosecutor. I am of opinion that the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course. I find no features in this case which would justify or warrant invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This, I am satisfied, is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seen regular bail in the ordinary course.

3. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass

appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge